IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 871 of 1987
With
SPECIAL CIVIL APPLICATION No. 5518 of 1986

For Approval and Signature:

HONOURABLE MR.JUSTICE P.B.MAJMUDAR

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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SOLANKI VINUBHAI SHANKERBHAI AND OTHERS
Versus
STATE OF GUJARAT AND OTHERS

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Appearance :
MS ROOPAL R PATEL for Petitioners.
MS FALGUNI PATEL, AGP for Respondents.

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CORAM : HONOURABLE MR.JUSTICE P.B.MAJMUDAR

Date : 11/09/2006

COMMON ORAL JUDGMENT

Since common point is involved in both these petitions, both these petitions are disposed of by this common judgement.

So far as Special Civil Application No.5518/1986 is concerned, the same is filed by one petitioner and so far as Special Civil Application No.871/1987 is concerned, the same is filed by seven petitioners.

The petitioners were temporarily appointed on fixed remuneration as 'Pracharaks'. As per Annexure-A, page 20 of Special Civil Application No.871/1987, services of the petitioners were terminated by an order dated 30-9-1986 on the ground that the petitioners were appointed for a period of two years in the year 1981 and since the said period is over, now their services are terminated. The Pracharaks were given fixed pay of Rs.150/- in case if they are S.S.C. And in case if the Pracharak is a graduate fixed remuneration of Rs.200/- was given per month.

Aforesaid termination order is challenged by the petitioners on various grounds.

At the time of hearing of this petition, it is pointed out that similar issue is decided by Division Bench of this Court in Letters Patent Appeal No.1773/1999 in Special Civil Application No.4813/1995 and allied matters. In aforesaid Letters Patent Appeal, Division Bench has considered the say of State Government regarding pros and cons of the scheme framed from time to time for uplifting the members of Scheduled Caste and Other Economically Backward Classes. Before the Division Bench a notification dated 7-5-2005 was also produced. While deciding aforesaid Letters Patent Appeal, Division Bench of this Court has held as under :

> “In furtherance of the observations made by the Court, the Committee constituted by the State Government vide Notification dated 7.5.2005 considered various issues relating to scheme under which Pracharaks were engaged by the Government and made

certain recommendations. After considering the recommendations of the Committee, the State Government has taken the following decisions:

(1) The Scheme may be continued only to accommodate the existing Pracharaks till such time they are rehabilitated or attain the age of 58 years whichever is earlier. Further, no fresh recruitment of Pracharaks be made under the Scheme.

(2) In case these Pracharaks are willing to take any financial assistance in the form of loan under the schemes of the various Corporations of this Department, then, their cases may be considered on priority as a special case. Further, such Pracharaks be allowed to receive the honorarium at the existing rate subject to the condition that the amount so received may be used for payment of beneficiaries' contribution for securing loan/repayment of loan.

(3) Those Pracharaks who are not willing to take the financial assistance in the form of loan as above, may be considered (given preference) for appointment to Class III services in State Government or Panchayat service in view of their experience as Pracharaks and their upper age limit be relaxed for the above posts provided they possess necessary educational qualifications."

The aforementioned decisions have been incorporated in affidavit dated 28th September, 2005 of Shri Manoj Raval, Joint Secretary, Social Justice and Empowerment Department, Sachivalaya, Gandhinagar.

Learned Advocate General says that the decision taken by the State Government may be made a part of the Court's order.

Learned counsel for the respondents says that the Court may fix a time limit for consideration of the candidature of Pracharaks for appointment to Class III posts for which advertisements have already been issued and they may be given benefit of preference and relaxation in future recruitment. Learned Advocate General fairly states that the State Government has no objection if the Court fixes some reasonable time for consideration of the candidature of the Pracharaks against the existing vacancies.

In view of the statement made by the learned counsel for the parties, the appeals are disposed of in the following terms:

(a) The decisions taken by the State Government, which have been reproduced above shall be read as part of this order.

(b) The process of recruitment already initiated for filling up Class III posts in the service of State Government or Panchayats shall be completed, as far as possible, within six months and the Pracharaks be given the benefit in terms of Clause 3 of the decision.

(c) In future recruitments the Pracharaks shall be given the benefit of relaxation in age qualification and their candidature be considered in accordance with the relevant rules provided they possess necessary educational qualification.

While disposing of the appeals in the manner indicated above, we make it clear that if the appellants have any other grievance in relation to their service conditions, then they shall be free to make representation to the competent authority and avail appropriate legal remedy, if any such contingency arises.

Direct service is permitted.

A copy of this order be placed in each matter."

Learned advocate for the petitioner submitted that unfortunately these two matters were not tagged along with aforesaid matters, though the issue involved in these petitions is identical to the issue involved in aforesaid matters. However, she submitted that the only difference in these cases was that there there is no interim relief in favour of the present petitioners, with the result the petitioners were not in service.

Considering the submission of learned advocate for the petitioner that the case of present petitioners is identical to the case of petitioners of aforesaid cases, and the only difference was that there was no interim relief in favour of the petitioners, it would be just and proper to direct

the State Government to consider the case of present petitioners appropriately and if the case of the petitioners is identical to the case of the employees which was decided in Letters Patent Appeal No.1773/1999, said benefit may also be made available to the present petitioners as per the direction of the Division Bench in aforesaid Letters Patent Appeal. Accordingly, the State Government may take appropriate decision as early as possible and may find out whether the petitioners are entitled to the same benefit like those employees and case of the petitioners may not be thrown out only on the ground that there was no interim relief in favour of the present petitioners. Appropriate decision, as stated herein above, may be taken in light of the order of Division Bench in Letters Patent Appeal No.1773 of 1999, which is quoted herein above. Such decision may be taken within a period of three months from the date of receipt of writ from this Court.

Accordingly, both these petitions are allowed. Rule is made absolute with no order as to costs.

(P.B.Majmudar, J.)

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